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November 14, 2007

**MEMORANDUM**

**TO:** Legislative Education Study Committee

**FR:** Frances R. Maestas *FRM*

**RE: EXECUTIVE SUMMARY: ALBUQUERQUE PUBLIC SCHOOLS FUNDING:  
LFC REVIEW**

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**Introduction:**

During the 2007 interim, the Legislative Finance Committee (LFC) performance auditors conducted a review of the Albuquerque Public Schools (APS) to address a number of financial and performance issues related to the following memorials that were passed by the 2007 Legislature:

- SJM 59, *Albuquerque Public Schools Audit*, requesting an audit of APS to determine the district's classification of expenditures in the public school chart of accounts and the amount of the district's budget for administration and in direct instruction (see Attachment 1);
- SM 37, *Albuquerque School District Audit*, requesting an examination of the district's use of state and federal funds for schools with high dropout rates and other indicators of large at-risk student populations (see Attachment 2); and
- SJM 19, *Study Teacher Attendance & Substitutes*, requesting an examination of the use of substitute teachers and options for improving teacher attendance in the classroom (see Attachment 3).

The LFC review also included an examination of the district's special education funding through the Public School Funding Formula (referred to as "related service funding" in the LFC review

report) and the actuarial health of the district's self-insured benefits and risk programs (referred to as "health insurance and risk insurance funds).

## **RELATED SERVICE FUNDING (see pages 10 and 12-17)**

### **Current Law:**

For the purpose of calculating program units through the Public School Funding Formula, current law (see Attachment 4) states that special education students, including gifted students and students with disabilities, are classified as A, B, C, or D level depending on the intensity of services required. Special education students are counted first in grade level for basic education programs, then with the following additional special education units:

		<u>Times</u>	<u>Cost</u> <u>Differential</u>	<u>= Units</u>
Related Services (Ancillary)	FTE	×	25.00	
A/B Level Service Add-on	MEM	×	0.70	
C Level Service Add-on	MEM	×	1.00	
D Level Service Add-on	MEM	×	2.00	
3- and 4-Year-Old DD Program Add-on	MEM	×	2.00	

### **Findings:**

The LFC auditors indicate that:

- Provisions in law do not clearly define or delineate which ancillary personnel are eligible providers for the purpose of generating special education funding through the Public School Funding Formula.
- A review of APS special education funding beginning in FY 02 reveals a decrease in special education students but an increase in formula funding, predominantly in FY 07 and FY 08, because of an increase in FTE ancillary personnel, particularly speech language pathologists (see page 10).
- For FY 05 to FY 08, the number of special education students in APS, excluding charter schools, has decreased by approximately 2.9 percent; however, the number of ancillary personnel increased by approximately 16.6 percent (see page 13).
- "In addition to funding fully licensed ancillary FTE, the state funds physical therapy and occupational therapy assistants and speech language apprentices at 25 units per FTE, although these staff are not permitted to carry caseloads but may only work under the direct supervision of fully certified ancillary service and diagnostic service providers." (See page 14.)
- As a result of these findings, "growth in funded units and staff has outpaced [special education] students."

## **Recommendations:**

Among its recommendations, the LFC auditors recommend that:

- current statute be amended to define which FTE ancillary personnel are eligible to generate funding through the Public School Funding Formula;
- The Public Education Department (PED) be required to revise rule in accordance with the amended statute and to establish and implement processes for the review and validation of special education position codes and other funding data;
- trends in related service FTE be considered in the development of the [public school support] recommendations of the Legislature and the Executive; and
- approximately \$2.7 million be recovered from APS as over funding for FY 08 and reverted to the General Fund.

## **USE OF SUBSTITUTE TEACHERS (see pages 18-20)**

In response to **SJM 19, *Study Teacher Attendance & Substitutes***, the LFC review addressed issues related to the use of substitute teachers and options for improving teacher attendance in the classroom addressed in SJM 19, including substitute teacher qualifications, availability, salary and benefits, length of duty, and parental notification.

## **Findings:**

Among their findings, the LFC auditors indicate that the district:

- requires all substitute teachers to be licensed by PED and to possess a minimum of 60 college hours or an Associate Degree;
- manages its substitute teacher hiring and placements through its Office of Substitute Services, which maintains an automated system with at least 1,200 available substitute teachers; however, selection of a substitute is the prerogative of the school principal;
- maintains a substitute salary schedule that in school year 2006-2007 paid from approximately \$52 to over \$81 on a daily basis for short-term substitutes; long-term substitutes are paid the current daily rate plus an extra hour after four days;
- reports that data are not available for the average length of duty; and
- sends a form letter to parents whenever a long-term substitute is utilized.

LFC staff further reviewed the district's use of substitutes for instructional personnel teaching core classes and attending professional development activities and found that in 2007, APS used substitutes for teacher attending professional development activities during the instructional day (see pages 18 and 19).

**Recommendation:**

The LFC auditors recommend that a study should be conducted to assess the use of substitute teachers on student performance.

**HEALTH INSURANCE AND RISK INSURANCE FUNDS (see pages 20-22)****Current Law:**

In 1986, the New Mexico Public School Insurance Authority (NMPSIA) was created in the *Public School Insurance Authority Act* to serve as a purchasing agency for public school districts, postsecondary educational entities, and charter schools.

Currently, NMPSIA provides health and risk insurance coverage for 88 of New Mexico's public school districts and its 61 charter schools. Current law exempts any school district with a student enrollment in excess of 60,000 students from NMPSIA coverage, which applies only to APS, who has opted to carry its own insurance plans.

The medical plans of both entities are "self-insured" which means that NMPSIA and APS are responsible for the design of the plans and the setting of contributions. The entities set the contribution rates to provide the necessary revenue to pay for the claims its participating members incur. When the projected claims exceed the contributions, the contribution rates have to be increased to cover any deficit; however, if the projected claims do not materialize, additional revenues become available.

**Background:**

- Each year, the Legislature appropriates dollars to the State Equalization Guarantee distribution (Public School Funding Formula) to fund the employer's share of insurance premiums for school districts and charter schools covered by NMPSIA and for APS.
- The dollars appropriated are based on an appropriation request by NMPSIA that is based on projected contribution rates that are considered to be adequate for its members to provide for anticipated insurance claims, administrative costs, and reserves in the ensuing fiscal year. These increases have often been offset by NMPSIA board action that allows the agency to use unrestricted cash balances to reduce the projected increases for both the employer and the employee. APS makes a separate request and does not report the use of excess dollars to reduce insurance costs in the district.

**Findings:**

- In its review of the district's health (or medical) benefit and risk insurance programs, the LFC report states that the district does not maintain separate funds to account for the employee and employer contributions, interest earned, and claims paid.
- With regard to its health benefit programs, the report states, the district:
  - transfers its employees' contributions into several liability accounts but does not match these contributions with the employer's share; does not reconcile payment and

distribution reports; and, as a result, implements health and medical insurance premiums recommended by its actuary without considering excess dollars that may be used to reduce any premium increases; and

- based on an LFC estimate, the report indicates that the district's cumulative health benefits ending fund balance for FY 04 through FY 07 would have been approximately \$24.5 million (see page 21).
- For the risk program, the LFC auditors reported that they were unable to estimate fund balances for property/liability and for workers' compensation insurance because the district has not maintained a separate fund to account for these dollars.

### **Recommendations:**

Among its recommendations, the LFC review recommends that APS:

- establish insurance policies and procedures;
- transfer insurance balances to a separate fund;
- at the end of each month, require the finance and accounting department and the risk and benefits department to reconcile employee and employer contributions and claims paid; and
- provide to PED, the Legislative Education Study Committee, and LFC, selected FY 07 insurance information, including total premiums, insurance enrollment, claims paid, insurance recoveries, fund balances, incurred but not reported claims, and estimated premiums for the next period.

### **IMPACT OF FUNDING ON STUDENT PERFORMANCE (see pages 22-27)**

In response to **SJM 59, *Albuquerque Public Schools Audit***, the LFC review report indicates that the district:

- maintains its own accounting system that automatically crosswalks account information with the state's public school chart of accounts and, therefore, properly categorizes expenditures; and
- in FY 07, expended approximately 62.4 percent of its budget in instruction and the remaining 37.6 percent in other functions, including support services (for students, instruction, general administration, and school administration), central services, operations and maintenance of plant, student transportation, food, and community services operations (see page 23).

### **Recommendation:**

The LFC auditors recommend that APS should review and align internal department titles with account names to avoid confusion in the categorization of accounts in the chart of accounts.

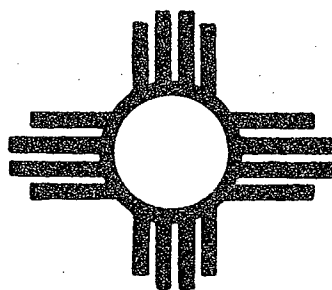
In response to **SM 37, *Albuquerque School District Audit***, the LFC performance auditors reviewed:

- the allocation of state and federal funds for low-income, bilingual, and special education students in select schools in the district (see page 24) and found that for FY 06 and FY 07, high-poverty schools did not spend federal (Title I) funds to improve student success (see page 25);
- the administration of standards-based assessments and found that students are tested in late February or early March of the school year; however, test results are not available until the beginning of the next school year; and
- teacher qualifications found no direct relationship between student results for determining Adequate Yearly Progress and a teacher's licensure, educational level, or experience.

### **Recommendations:**

The LFC auditors recommend that:

- operational funds for direct instruction should be increased to enable schools to address the needs of high-risk students;
- the impact of teacher experience and qualifications on student performance should be studied;
- PED should ensure that standards-based assessment test results are provided to schools and teachers at least three weeks before the start of the next school year in order for teachers to review test results and to determine services needed by students; and
- PED should consider printing a newsletter highlighting best practices in schools and creating networks between schools to help in improving student services.



# The Legislature of the State of New Mexico

48th Legislature, First Session

LAWS 2007

CHAPTER \_\_\_\_\_

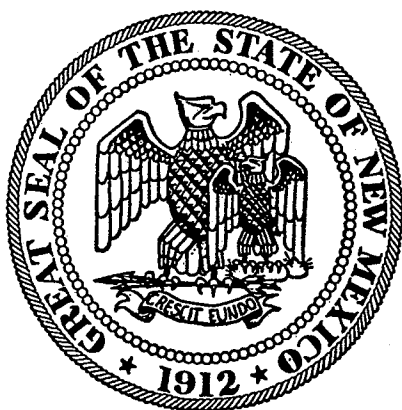
SENATE JOINT MEMORIAL 59

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Introduced by

SENATOR JOHN C. RYAN



1 A JOINT MEMORIAL

2 REQUESTING THE LEGISLATIVE FINANCE COMMITTEE, THE OFFICE OF  
3 EDUCATION ACCOUNTABILITY AND THE STATE AUDITOR TO AUDIT THE  
4 ALBUQUERQUE PUBLIC SCHOOL DISTRICT TO DETERMINE HOW MUCH OF  
5 THE DISTRICT'S BUDGET GOES TO ADMINISTRATION AND IF THE  
6 DISTRICT IS CLASSIFYING EXPENDITURES IN THE APPROPRIATE  
7 SUBFUNDS OR FUNCTIONS OF THE NEW UNIFORM CHART OF ACCOUNTS.

8  
9 WHEREAS, with approximately ninety-four thousand six  
10 hundred students, Albuquerque public schools is the largest  
11 school district in the state and one of the largest in the  
12 country; and

13 WHEREAS, the public school funding formula is based in  
14 part on the assumption that large school districts can  
15 achieve certain economies of scale; and

16 WHEREAS, according to national center for education  
17 statistics data, many districts of similar size and  
18 composition are able to achieve economies of scale that allow  
19 them to spend less on administrative costs; and

20 WHEREAS, Albuquerque public school district's general  
21 fund net operational subfund expenditures by function reports  
22 consistently show that the district is among the lowest for  
23 expenditures for administrative functions in New Mexico; and

24 WHEREAS, the district has shown a difference of no more  
25 than two-tenths of one percent in expenditure in the



1 administration subfund under the former chart of accounts for  
2 the last ten years; and

3 WHEREAS, during that time, the district modified its  
4 administrative structure to include four superintendents, all  
5 of whom were receiving salaries of over one hundred thousand  
6 dollars (\$100,000) plus benefits, the district did not show  
7 an increase in expenditures in the administration subfund;  
8 and

9 WHEREAS, the other four operational subfunds also show  
10 very little movement in the percent of their expenditures  
11 over the same ten-year period; and

12 WHEREAS, the district reports would seem to indicate  
13 that it is not now spending any more of its state  
14 equalization guarantee distribution in the direct instruction  
15 subfund than it did in 1996-1997;

16 NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE  
17 STATE OF NEW MEXICO that the legislative finance committee,  
18 the office of education accountability and the state auditor  
19 be requested to audit Albuquerque public schools to determine  
20 how much of the school district's budget actually goes to  
21 functions 2300, 2500, 2600 and 2900 as specified in the  
22 uniform chart of accounts manual of procedures; and

23 BE IT FURTHER RESOLVED that the audit determine if  
24 Albuquerque public school district is reporting its  
25 expenditures in the appropriate categories; and

1           BE IT FURTHER RESOLVED that the audit team report its  
2 findings and recommendations to the legislative finance  
3 committee, the legislative education study committee and the  
4 public education department by November 1, 2007. \_\_\_\_\_

SJM 59  
Page 3

s/Diane D. Denish

Diane D. Denish, President  
Senate

s/Margaret Larragoite

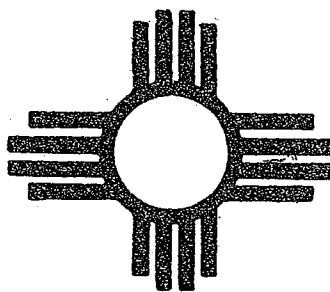
Margaret Larragoite, Chief Clerk  
Senate

s/Ben Lujan

Ben Lujan, Speaker  
House of Representatives

s/Stephen R. Arias

Stephen R. Arias, Chief Clerk  
House of Representatives



# The Legislature of the State of New Mexico

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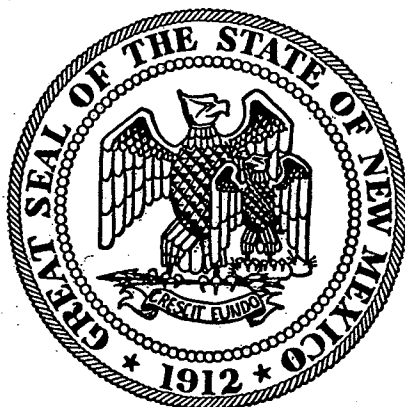
SENATE MEMORIAL 37

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Introduced by

SENATOR JAMES G. TAYLOR  
SENATOR MARK L. BOITANO  
SENATOR JOSEPH J. CARRARO  
SENATOR LINDA M. LOPEZ  
SENATOR BERNADETTE M. SANCHEZ



1 A MEMORIAL

2 REQUESTING THE LEGISLATIVE FINANCE COMMITTEE AND THE OFFICE  
3 OF EDUCATION ACCOUNTABILITY TO CONDUCT AN AUDIT OF THE  
4 ALBUQUERQUE SCHOOL DISTRICT.  
5

6 WHEREAS, with approximately ninety-four thousand six  
7 hundred students, Albuquerque public schools is the largest  
8 school district in the state and one of the largest in the  
9 country; and

10 WHEREAS, it is a majority Hispanic school district,  
11 with fifty-four and one-half percent Hispanic, just over  
12 thirty percent Anglo, about five percent Native American,  
13 almost four percent African American and about two and  
14 one-half percent Asian students; and

15 WHEREAS, the school district encompasses the south  
16 valley, the southeast heights, the far northeast heights and  
17 the west mesa areas of the Albuquerque metropolis and  
18 includes the entire range of the socioeconomic scale, with  
19 about forty percent of its elementary and middle school  
20 students receiving free or reduced-fee lunch; and

21 WHEREAS, the state equalization guarantee includes a  
22 cost differential that provides school districts with  
23 additional funds based on certain characteristics that  
24 describe students at risk of dropping out, including  
25 mobility, family income, English language learner and percent

1 of students who receive title I funding; and

2 WHEREAS, because these characteristics are accurate  
3 predictors of the number of students who are at risk of not  
4 completing high school, it is important that the state  
5 funding for this purpose be spent in the schools and  
6 classrooms that generate the funds; and

7 WHEREAS, the schools in the Rio Grande high school,  
8 Highland high school and Albuquerque high school clusters  
9 have large numbers of students who come from low  
10 socioeconomic backgrounds; and

11 WHEREAS, anecdotal information indicates that these  
12 schools are not receiving the financial aid they generated  
13 from their large numbers of at-risk students and, therefore,  
14 are hampered in their ability to provide the intensive  
15 services that at-risk students need if they are to stay in  
16 school and graduate;

17 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE  
18 STATE OF NEW MEXICO that the legislative finance committee  
19 and the office of education accountability be requested to  
20 conduct an audit of the Albuquerque public schools to  
21 determine how, to what purposes and to what schools state and  
22 federal funds are allocated and to determine whether the  
23 district is putting its at-risk funding into the schools with  
24 the highest dropout rates and other indicators of large  
25 at-risk student populations; and

1           BE IT FURTHER RESOLVED that copies of this memorial be  
2 transmitted to the director of the legislative finance  
3 committee and the director of the office of education  
4 accountability. \_\_\_\_\_

SM 37  
Page 3

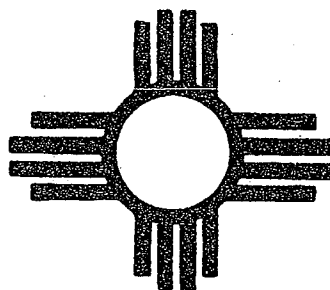
s/Diane D. Denish

Diane D. Denish, President  
Senate

s/Margaret Larragoite

Margaret Larragoite, Chief Clerk  
Senate





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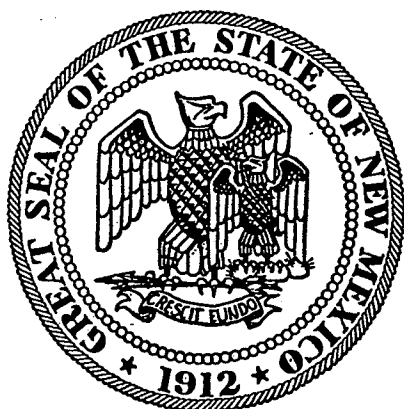
SENATE JOINT MEMORIAL 19

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Introduced by

SENATOR PHIL A. GRIEGO



1 A JOINT MEMORIAL

2 REQUESTING THE LEGISLATIVE EDUCATION STUDY COMMITTEE TO STUDY  
3 TEACHER ATTENDANCE AND THE USE OF SUBSTITUTE TEACHERS IN  
4 SCHOOL DISTRICTS.

5  
6 WHEREAS, the legislative and the executive branches have  
7 made a commitment to public school reform by, for example,  
8 eliminating most social promotion; requiring more formalized  
9 assistance for students who are failing; increasing  
10 grade-level and graduation requirements; and instituting the  
11 three-tier licensure system for teachers and school  
12 administrators to raise teacher qualifications and salaries;  
13 and

14 WHEREAS, teachers and schools are now held accountable  
15 for student achievement; and

16 WHEREAS, the state expects teachers to improve their  
17 teaching skills through professional development; however,  
18 because most teacher contracts have not been extended beyond  
19 the instructional year, professional development often causes  
20 teacher absences from the classroom; and

21 WHEREAS, studies show that students who have teachers  
22 with fewer absences have significantly larger improvements in  
23 test scores and other achievement indicators; and

24 WHEREAS, the use of substitute teachers is disruptive to  
25 students and, over time, can affect the academic structure of

1 a class, compromise the teacher's role as an educational  
2 leader in the classroom and impede students' educational  
3 development; and

4 WHEREAS, substitute teachers may have no knowledge of  
5 the subject matter being taught in the classroom in which  
6 they are substituting or may be unable to correctly follow or  
7 interpret the lesson plans left by the absent teacher; and

8 WHEREAS, the pressures of the state's accountability  
9 system and the requirements for adequate yearly progress make  
10 untenable the use of substitutes who end up serving merely as  
11 an adult presence in the classroom; and

12 WHEREAS, New Mexico's requirements for substitute  
13 teacher certification are less than rigorous, but, even so,  
14 school districts often find it difficult to attract and  
15 retain an adequate pool of substitute teachers; and

16 WHEREAS, it is difficult to attract and retain  
17 knowledgeable substitute teachers when pay is low and  
18 benefits are nonexistent; and

19 WHEREAS, the use of substitute teachers has budgetary  
20 implications, and an unanticipated need for substitute  
21 teachers can adversely affect a school district's budget;

22 NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE  
23 STATE OF NEW MEXICO that the legislative education study  
24 committee be requested to study the issue of substitute  
25 teachers, including qualifications, availability, salary and

1 benefits, frequency of use across the state, length of duty  
2 and parental notification; and

3 BE IT FURTHER RESOLVED that the committee study options  
4 for keeping teachers in the classroom during student  
5 attendance hours and improving teacher attendance in order to  
6 improve student achievement; and

7 BE IT FURTHER RESOLVED that a copy of this memorial be  
8 transmitted to the legislative education study committee.           

SJM 19  
Page 3

s/Diane D. Denish

Diane D. Denish, President  
Senate

s/Margaret Larragoite

Margaret Larragoite, Chief Clerk  
Senate

s/Ben Lujan

Ben Lujan, Speaker  
House of Representatives

s/Stephen R. Arias

Stephen R. Arias, Chief Clerk  
House of Representatives

**22-8-21. Special education program units.**

A. For the purpose of the Public School Finance Act [22-8-1 NMSA 1978], special education programs for exceptional children are those approved by the department and classified as follows:

(1) class A programs, in which department certified individuals provide services to children whose individualized education programs require a minimal amount of special education and in which the ratio of students to professionals is regulated by the state board [department];

(2) class B programs, in which department certified individuals provide services to children whose individualized education programs require a moderate amount of special education and in which the ratio of students to professionals is regulated by the state board;

(3) class C programs, in which department certified individuals provide services to children whose individualized education programs require an extensive amount of special education and in which the ratio of students to professionals is regulated by the state board;

(4) class D programs, in which department certified individuals provide services to children whose individualized education programs require a maximum amount of special education and in which the ratio of students to professionals is regulated by the state board. Students in class D programs may be enrolled in private, nonsectarian, nonprofit educational training centers in accordance with the provisions of Section 22-13-8 NMSA 1978; and

(5) programs for developmentally disabled three- and four-year-old children meeting standards approved by the state board.

B. All students assigned to the programs for exceptional children classified in Subsection A of this section shall have been so assigned as a result of diagnosis and evaluation performed in accordance with the standards of the department before the students may be counted in the determination of special education program units as provided in Subsection C of this section.

C. The number of special education program units is the sum of the following:

(1) the MEM in approved class A and B programs as defined in Subsection A of this section multiplied by the cost differential factor .7;

(2) the MEM in approved class C programs as defined in Subsection A of this section multiplied by the cost differential factor 1.0;

(3) the MEM in approved class D programs as defined in Subsection A of this section multiplied by the cost differential factor 2.0;

(4) the MEM for developmentally disabled three- and four-year-old children as defined in Subsection A of this section multiplied by the cost differential factor 2.0; provided that no developmentally disabled three- or four-year-old student shall be counted for additional ancillary service units; and

(5) for related services ancillary to providing special education, the number of full-time-equivalent certified or licensed ancillary service and diagnostic service personnel multiplied by the cost differential factor 25.0.

D. For the purpose of calculating membership in class C and class D programs, students shall be counted in actual grade placement or according to chronological age if not in actual grade placement.

**History:** 1953 Comp., § 77-6-18.4, enacted by Laws 1969, ch. 180, § 17; 1971, ch. 263, § 7; 1972, ch. 87, § 2; 1973, ch. 351, § 2; reenacted by 1974, ch. 8, § 11; 1976 (S.S.), ch. 32, § 5; 1980, ch. 35, § 1; 1987, ch. 149, § 1; 1992, ch. 75, § 1; 1992, ch. 84, § 1; 1997, ch. 40, § 5.

**Cross references.** — For transfer of powers and duties of former state board, see 9-24-15 NMSA 1978.

**1992 amendments.** — Identical amendments to this section were enacted by Laws 1992, ch. 75, § 1 and Laws 1992, ch. 84, § 1, both effective May 20, 1992, which deleted "of education" following "department" several times throughout the section; rewrote Subsections A(1) to A(4); deleted "to the division" following "certified" in Subsection C(1); and substituted "MEM" for "ADM" several times in Subsections C(2) to C(4).

**The 1997 amendment,** effective July 1, 1997, in Subsection C, rewrote Paragraph (1), substituted "MEM in approved class" for "special education in class" in Paragraphs (2) and (3), substituted "2.0" for "3.5; and" in Paragraph (3), in Paragraph (4), deleted "special education" preceding "MEM", deleted "Paragraph (5) of" preceding "Subsection A", substituted "2.0" for "3.5", and added "and" at the end of the paragraph and added Paragraph (5); and added Subsection D.